



MAYOR AND COUNCIL AGENDA

NO. 15 DEPT.: Legal/ Community Planning and Development Services DATE: Nov. 18, 2004

Contact: Deane Mellander, Planner III

ACTION: Public Hearing on Preliminary Development Plan application PDP2004-00008: To allow an increase in the height at setback of the Phase 3 building at the Rockville Metro Center development; Rockville Metro Center (Foulger-Pratt), applicants.

ACTION STATUS:

FOR THE MEETING OF: 12/6/04

INTRODUCED
PUB. HEARING
INSTRUCTIONS
APPROVED
EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER 25
SECTION 683

☐ CONSENT AGENDA

RECOMMENDATION: Hold public hearing.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Will allow an additional story on the Phase 3 building, and increase the building setback from the adjoining lot.

BACKGROUND: The applicant is proposing a Preliminary Development Plan for the purpose of revising the height of the proposed third building fronting on East Middle Lane. The project was originally approved under the standard method of development under Use Permit USE97-0577. The amendment would allow an additional story of building height up to 15 feet. Allowing the additional building height will allow the applicant to set the building back 30 feet from the common property line with Block 5 of the Rockville Town Square project. This is an increase of 15 feet from the separation between buildings as currently approved. This would allow for greater light and air for the offices that would face the building on Block 5 of the Town Square project. No other changes to the conditions or requirements of the original project approval are proposed, other than very minor changes to comply with current regulations, such as provision of public art.

The Planning Commission considered this proposal at their meeting on November 17, 2004. The Commission considered the staff recommendation, and recommends approval. Their opinion is on attachment 1.

The staff recommended approval of the proposed PDP application with one additional condition to show existing easements, including the easement for truck access to East Middle Lane from Block 5 of the Town Square development. The applicant agreed to this added condition, and it is included in

the Planning Commission's recommendation.

Post card notice of the public hearing was mailed to surrounding property owners and nearby civic associations.

PREPARED BY:

Deane E. Mellander
Deane Mellander, Planner III

11/29/04
Date

APPROVE:

Robert J. Spalding
Robert J. Spalding, AICP, Chief of Planning

11-29-4
Date

APPROVE:

Arthur D. Chambers
Arthur D. Chambers, AICP, CPDS Director

11/29/04
Date

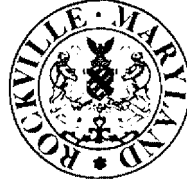
APPROVE:

Scott Ullery
Scott Ullery, City Manager

12-10/04
Date

LIST OF ATTACHMENTS:

1. Planning Commission recommendation.
2. Staff report to the Planning Commission.



City of Rockville

MEMORANDUM

November 18, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Recommendation on Preliminary Development Plan application PDP2004-00008 - Rockville Metro Center; Foulger-Pratt

At its meeting of November 17, 2004 the Planning Commission reviewed the above referenced Preliminary Development Plan (PDP) application. The proposal is to add an additional floor to the Phase 3 office building and increase the building setback from 15 feet to 30 feet. The office building is part of an approved Use Permit for the 3-building Rockville Metro Center project.

The Planning Staff Report recommended approval of the PDP with one additional condition. The recommended additional condition requires that the applicant show on the plan the existing ingress-egress easements with the adjoining lot, including the truck-only easement exiting onto East Middle Lane. The applicant agreed to the condition and the Planning Commission concurs with this added condition.

The Planning Commission received comments from the staff and applicant. There were no other comments received.

The Planning Commission supports the proposed PDP application. Commissioners Holtz and Johnson commented that they believed that the proposed building design was better than the original. Therefore on a motion by Commissioner Britton, seconded by Commissioner Mullican, the Planning Commission voted to recommend approval of the proposed PDP by a vote of 6 to 0 with one absent.

/dem

cc: Planning Commission

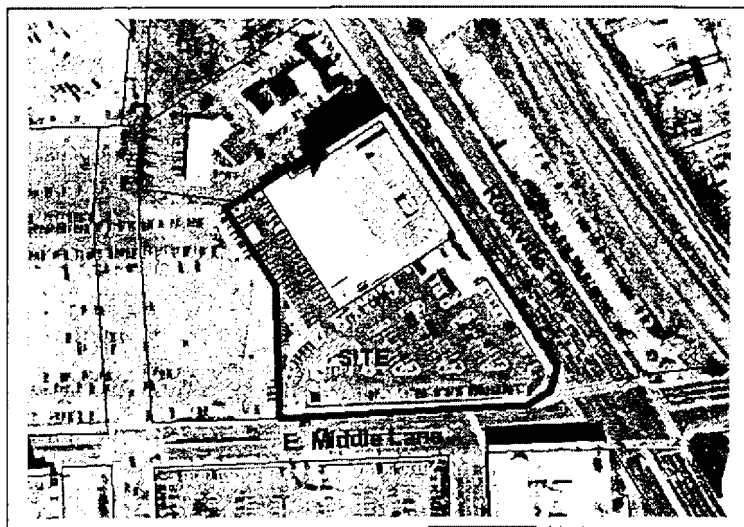
**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

November 10, 2004

SUBJECT: Preliminary Development Plan
Application PDP2004-00008 –
Rockville Pike and East
Middle Lane
Foulger-Pratt

Applicant: Rockville Metro Plaza I, LLC

Owner: F-P Rockville II Limited
Partnership, F-P Rockville III
Limited Partnership
4600 Blackwell Road
Rockville, MD 20854



Date Filed: September 15, 2004

Location: 121 Rockville Pike

REQUEST:

- The applicant requests approval of a Preliminary Development Plan to amend an existing approved use permit (USE97-0577) to add an additional floor to the Phase 3 building of the Foulger-Pratt project. Because the added floor increases the building height above height permitted in the TCM-2 Zone, the applicant must apply for the optional method and file a Preliminary Development Plan. The application will increase the building setback by 15 feet along the Middle Lane frontage. There is no change proposed in the site plan design, and no change in the gross floor area.

PREVIOUS RELATED ACTIONS:

Use Permit USE97-0577 was approved on December 2, 1999 for a 620,000 square foot office project consisting of 3 buildings. The use permit was approved under the standards of the TCM-2 Zone, which allow building height up to 100 feet.

RELEVANT ISSUES

In reviewing the application, the following issues emerged and have been addressed:

- Compatibility with the Citywide Master Plan recommendations.
- The relationship to other adjoining uses around the site.

ANALYSIS

Background

The subject property is at the northwest corner of the intersection of Rockville Pike and East Middle Lane in the town center area.

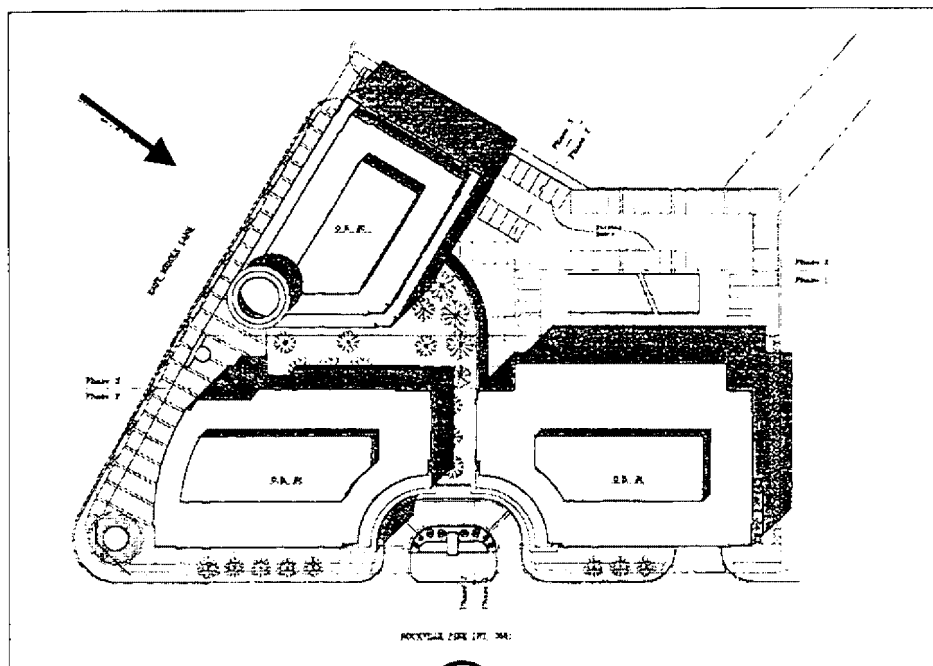
Property Description

The total property is an irregular polygon. It consists of Lot 16-B of the City Center subdivision, containing 3.52983 acres. The Phase III building is located on Ownership Lot N181. The area of the ownership lot is 45,154 square feet, or 1.04 acres. The lot has frontage on East Middle Lane. The site is currently improved with a surface parking lot in association with the Phase I building of the approved use permit.

Proposal

The Preliminary Development Plan (PDP) has been filed under the optional method in the TCM-2 Zone. The optional method allows for a greater range of uses, reduced parking requirements, and more flexible development standards than are available under the standard zoning provisions. The PDP must be approved by the Mayor and Council. The subsequent use permit(s) must be approved by the Planning Commission and be in conformance with the provisions of the approved PDP.

The application proposes to retain the approved Phase III building, but increase the building setback from the adjoining Lot 18 from 15 feet to 30 feet. In order to do this while retaining the approved 173,530 square feet of gross floor area, the applicant is proposing to add an additional floor to the top of the building. Because this additional floor will exceed the 100 feet of building height permitted under the standard method of development in the zone, the applicant must obtain approval of a Preliminary Development Plan under the optional method of development. No other changes to the site plan or building footprint are proposed.

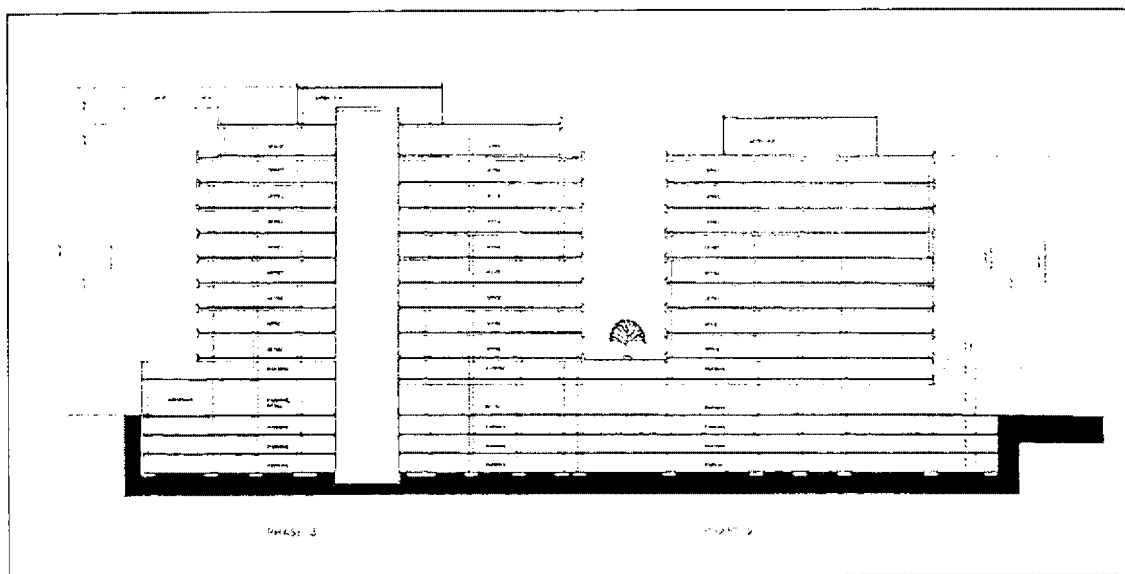


Interrelationship between the Preliminary Development Plan (PDP), Illustrative Plan and the Use Permits

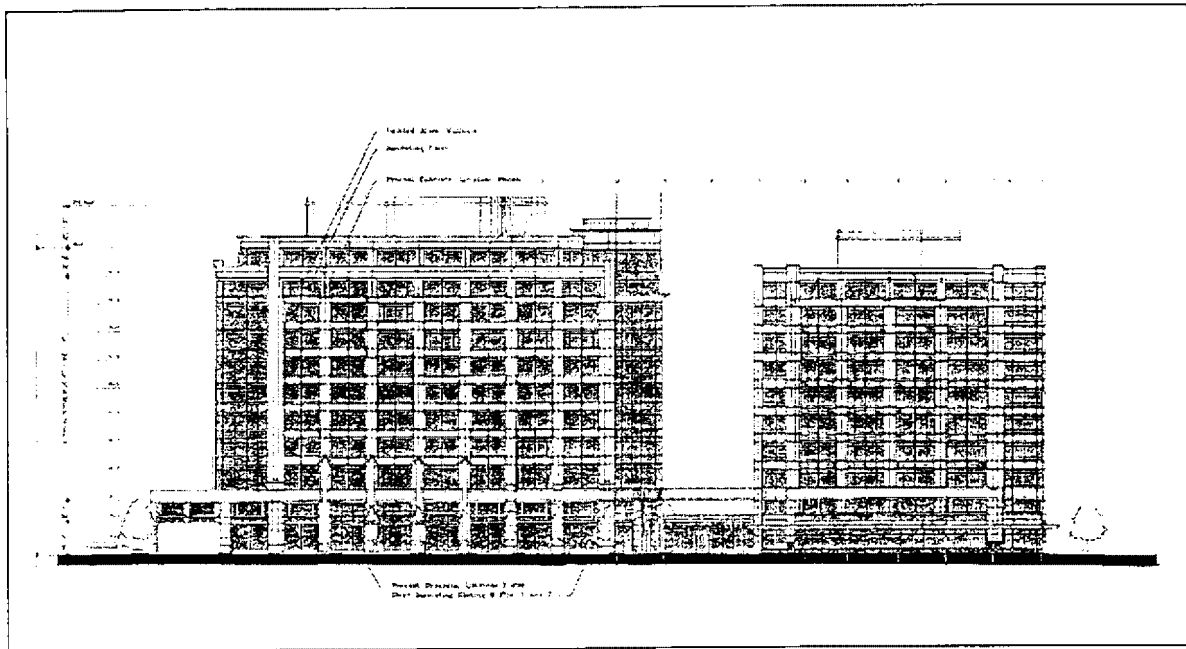
The PDP sets the overall levels of development at a concept plan level. The PDP is implemented by a subsequent Use Permit that serves as the detailed site plan and the point at which compliance with the development standards (setbacks, height, parking requirements) and the design guidelines are evaluated. There are two separate plans associated with the PDP - a concept plan and an illustrative plan.

The concept plan or bubble diagram identifies the total amount of development (by type), building heights, and the number of parking spaces. This is the plan that will be acted on by the Mayor and Council. The concept plan sets the overall development density envelope. Minor reallocations of densities may be allowed during the approval of Use Permits, so long as the overall density envelope is not exceeded.

The second plan is an illustrative plan that shows proposed details that will be fully evaluated as part of the subsequent use permits. The illustrative plan is an exhibit in the PDP approval, but the actual layouts are not approved as part of the PDP. It has been extremely helpful to have the illustrative plan to show the intent of the development, establish access points, and to provide a sense of the scale and design of the proposed buildings. The illustrative plan is shown on Exhibit __ for reference.



Illustrative Building Sections



Illustrative Building Facades

Development Standards – Optional Method

This project is proceeding under the optional method of development in the TCM-2 zone. Under this procedure, the Mayor and Council may grant a greater variety of land uses and flexibility in setback requirements where development complies with more extensive standards of urban design review and traffic impact review and mitigation. In addition, there is more flexibility in development process, and an allowance for reductions in the parking requirements. In this case the applicant is pursuing the optional method only to achieve the additional building height required as a consequence of increasing the building setback.

The optional method sets forth the following set of requirements, which are accompanied by the staff's findings for each:

1. *The site must be a minimum of 2 acres.* The overall size of Lot 16 is 3.52983 acres.
2. *The applicant must submit a traffic study in conformance with the Comprehensive Transportation Review methodology.* A traffic study was done in conjunction with the review of the use permit application. There is no change in the approved floor area nor any change proposed in the site circulation. Therefore staff concludes that no new traffic study is required.
3. *Development is subject to an urban design review process.* One of the conditions of approval of the PDP is that each use permit must generally comply with the adopted Design Guidelines for the Town Center. The illustrative plan generally complies with the Design Guidelines.

4. *A shadow study must be performed, such that no building can cast a shadow on an existing or approved residential structure between 10:00 a.m. and 2:00 p.m. on December 21.* At the time the original use permit was approved, there was no development existing or proposed on the adjoining property to the west. Any shadows from the proposed building would fall on parking lots. The shadow study submitted by the applicant indicates that any shadow falling on the adjoining proposed building on Lot 18 between 10:00 a.m. and 2:00 p.m. will be no worse or better than the approved condition. With the 10-foot setback of the new story at the top, and the added 15 feet of setback along the side of the building, any shadow falls primarily on the parking garage proposed behind the Block 5 building on Lot 18 in the a.m. By noon and beyond, the shadows fall only on other buildings in the Foulger-Pratt project. Staff concludes that the shadow impact will be no worse or better than would be the case under the current approved condition.
5. *There must be a mix of uses, including residential, office, and commercial.* The Mayor and Council may authorize modifications to this use requirement where the strict application would result in practical difficulty or unnecessary hardship upon the owners. The proposed development includes a mix of office and retail commercial uses. The approved Use Permit shows 8,000 square feet of ground level retail in the Phase III building. Modification to the mix of uses requirement is acceptable because there is no change in the overall approved use mix.
6. *Pedestrian ways must link the site with adjoining properties and the Metro station.* The existing sidewalks will provide links both to the other commercial areas as well as to the Metro station.
7. *Building heights may be allowed up to a maximum of 235 feet in the TCM-2 Zone.* The proposed PDP would allow the height of the Phase III building to go from 100 feet, measured from the 448 foot elevation, to 115 feet. This is allowed under the optional method.
8. *Where the development includes the provision of public streets or easement for public ways, the area of the rights-of-way or easement may be used to calculate the FAR.* These areas are included in the calculations.

Required Findings

Optional method approval requires the same findings as a preliminary plan of subdivision. The required findings are listed below with a brief statement regarding the finding. Detail information supporting the findings is contained in the relevant sections of the staff report.

In reviewing Preliminary Development Plans, the Planning Commission must find that the application will not:

1. *Constitute a violation of any provision of this chapter or other applicable law:* The proposal complies with the relevant provisions of the Zoning Ordinance as described in the Analysis section.

2. *Violate or adversely affect the Plan:* The proposal generally implements many of the recommendations of the Town Center Master Plan. The approved project provides substantial employment density directly across the street from the Metro station, which is consistent with the intent of the master plan.
3. *Overburden existing public services, including but limited to water, sanitary sewer, public roads, storm drainage and other public improvements:* The proposal is served by adequate water and sewer service. Since there is no change in the gross floor area or on-site circulation compared to the approved use permit plan, there will be no change in the traffic generated from this site under the ultimate development.
4. *Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood:* There is no evidence that health or safety will be adversely affected. The proposal provides for improved sidewalks consistent with the Town Center guidelines and on-site structured parking.
5. *Be detrimental to the public welfare or injurious to property or improvements in the neighborhood:* There will no impact from the approval of this PDP, since there is no change in the overall character of the project as currently approved.
6. *Be unsuitable for the type of development, the use contemplated and available public utilities and services:* The proposed development is consistent with the recommendations of the Town Center Master Plan. Utilities and services are planned to accommodate the development proposed in the master plan.
7. *Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil:* Virtually the entire site is currently covered by buildings or other impervious surfaces. There will be no significant change to the topography of the site resulting from the proposed development.

Parking

A 26 percent parking reduction was approved under the Use Permit. No changes are proposed under the PDP application. The Traffic and Transportation Division has indicated that they have some concerns about the truck movements within the parking garage. These issues will be addressed at the time the amended use permit application is submitted.

Environmental Review

Public Sewer

Sewer service is already provided at the site to serve the existing and approved development. Wastewater treatment will be provided at the Blue Plains Wastewater Treatment Plant in the District of Columbia, of which Rockville has purchased sufficient treatment capacity to accommodate the Town Center developments.

Public Water

Rockville currently provides water service to the site to serve the existing and approved development. Rockville's existing water treatment plant, located on Sandy Landing Road in Potomac, is under renovation. The renovation and upgrade program, which will be completed in 2005, will allow the plant to meet the water demand created by the Town Center Master Plan level of projected development. Additionally, a Water Pumping Station on Glen Mill Road is needed to augment the City's water distribution system to meet the water demand created by the Town Center Master Plan level of projected development. The pump station will be operational in 2005.

Rockville has adequate facilities to provide service demand volume and street level water pressure as recommended by the American Water Works Association (AWWA). High-rise buildings may require secondary water supply for fire protection of the upper floors. This will be determined as part of the building permit review process.

Stormwater Management (SWM)

The Department of Public Works (DPW) reviewed and approved the stormwater management concept in connection with use permit USE97-0577.

Public Notice

Post card notice of the proposed PDP application and Planning Commission meeting date were sent to all adjoining and confronting property owners surrounding the project. In addition, post cards were sent to all civic associations in the neighborhoods surrounding the project.

STAFF RECOMMENDATION

Approval is recommended, subject to the following conditions:

1. Submission, for the approval of the Chief of Planning, of 15 copies of the Preliminary Development Plan, revised according the Mayor and Council Exhibit "A", to include the following:
 - a. Building height not to exceed 115 feet for the Phase III building, as measured from the 448 foot elevation above sea level. The other two buildings may not exceed 100 feet above the 448 foot level.
 - b. The Phase III building, exclusive of the parking garage, to be set back 30 feet from the west property line;
 - c. No increase in the gross floor area of the Phase III building;
 - d. The additional story added to the Phase III building must be set back at least 10 feet from the building façade on all sides.
 - e. All other conditions of approval of Use Permit USE97-0577, as set forth in the approval letter dated January 5, 1999, to remain in effect.

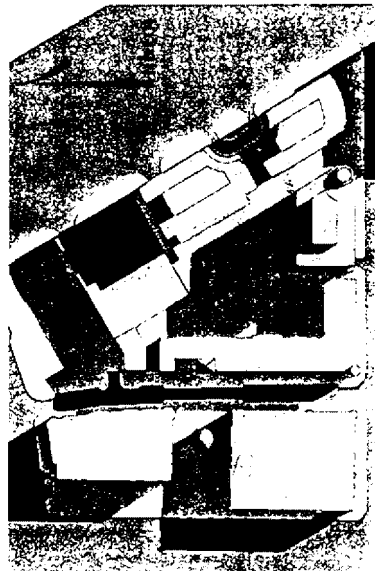
DEM/

Attachments:

1. PDP Generalized Land Use Concept Plan
2. Shadow Analysis
3. Use Permit approval letter, January 5, 1999
4. Statement of Applicant
5. Applicant's traffic statement
6. Tax map with site location
7. Illustrative Drawings and Perspectives

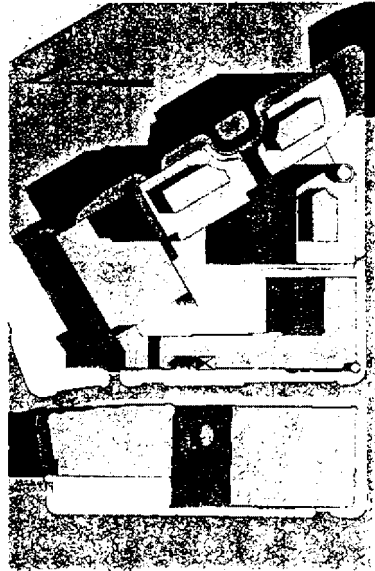


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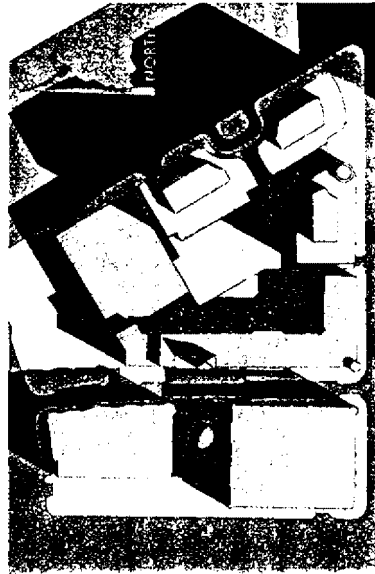


11
Stories

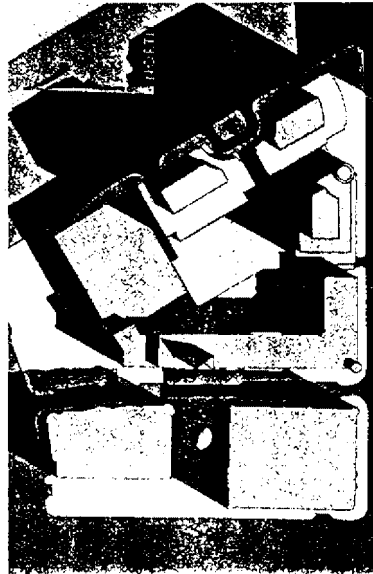
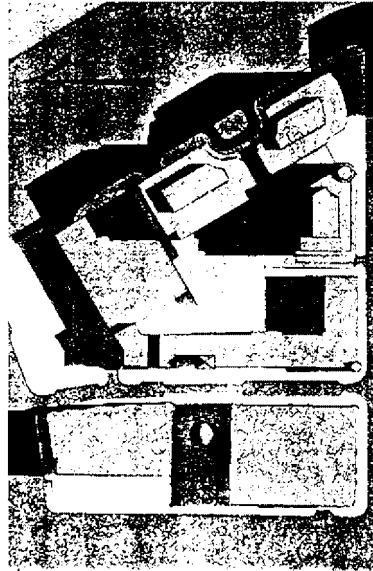
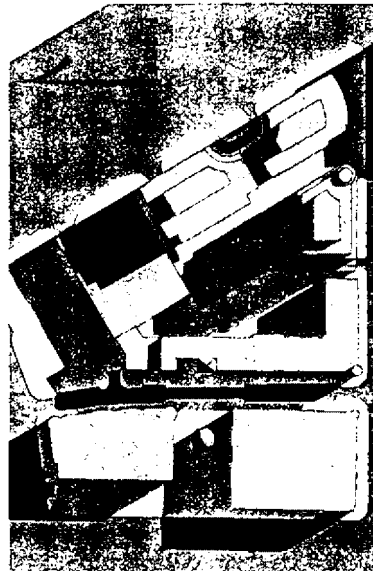
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2:00 pm



12
Stories



ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND

Revised Phase III Design
Shadow Study Dec. 21st

January 5, 1999

Clayton Foulger, Vice President
FP Rockville Limited Partnership
1355 Piccard Drive, Suite 400
Rockville, Maryland 20850

Re: Use Permit Application USE97-0577, Rockville Metro Plaza

Dear Mr. Foulger:

At its December 2, 1998 meeting, the City of Rockville Planning Commission granted approval of the referenced application, subject to certain conditions described below. This constitutes use permit approval for a 620,000 square foot office and retail complex consisting of three buildings located at the northwest corner of the Rockville Pike and East Middle Lane intersection. The Commission also granted approval of the requested parking reduction of 26 percent, as permitted by Section 25-693(1) of the Zoning Ordinance. Approval of USE97-0577 is subject to full compliance with the following conditions:

1. Submission, for the approval of the Chief of Planning, of fifteen (15) copies of the site plan, revised according to Planning Commission Exhibit A, and illustrating that the following site development issues and concerns have been satisfactorily addressed:
 - a) Conformance of the proposed streetscapes to match the established streetscape in Rockville Center, including paving materials and street lighting fixtures;
 - b) The accurate representation of the future configuration of East Middle Lane along the site frontage, including medians adjusted as per the Department of Public Works and the street frontage configuration along the south side of Middle Lane as approved in the Rockville Center development;
 - c) The accurate representation of the property boundaries, especially the common property line with City-owned Lot 15;
 - d) Indication that the East Middle Lane driveway entrance is aligned with the future Renaissance Street. The accurate location of Renaissance Street must be indicated on the site plan;
 - e) Reconfiguration of the 15-foot storm drain easement so that it is located entirely within the subject property, or an easement must be granted by

the City as owner of Lot 15 to allow the easement to straddle the common property line; and

- f) The extension of the existing median on East Middle Lane westward to the new driveway.
2. Submission, for the approval of the Chief of Planning, of eleven (11) copies of a detailed landscaping plan, revised according to Planning Commission Exhibit B, to show the following:
 - a) Installation of additional planters in the East Middle Lane plaza consistent with the planters used in Rockville Center; and
 - b) Detailed landscaping plans for the interim parking lots.
 3. Submission, for the approval of the Chief of Planning, of revised building elevations to show the following:
 - a) Modification of the Building 3 tower element so that it complies with Zoning Ordinance exemptions to height limitations; and
 - b) All elevations for each phase of the project.
 4. Submission, for the approval of the City Forester, of a Forest Conservation Plan in accordance with the Forest and Tree Preservation Ordinance. This plan must be coordinated with the landscape plan.
 5. Submission, for the approval of the Chief of Planning and the Director of Public Works of an exterior lighting plan for the building, plazas and sidewalks, parking garage and interim parking lots. Street and parking lot lighting fixtures should match those employed in the Rockville Center development as closely as possible. Parking lot and garage fixtures should be designed to limit light spillover on adjacent properties.
 6. Submission, for the approval of the Department of Public Works, of two copies of the following plans and studies:
 - a) Construction drawings for the travelway to be located within the access easement on City-owned Lot 15. The ultimate design shall be coordinated with any future improvements to the property as necessary;
 - b) Water and sewer plans with profiles, service connections and easements as required. Water and sewer connections for all buildings must be from East Middle Lane;

- c) Plans for stormwater management, sediment control, storm drain study and storm drainage for adequate conveyance of stormwater, all with computations and proposed easements and maintenance agreements, as required;
- d) Engineering plans shall be at a scale 1 inch = 30 feet or less on City base sheets for all work in the public right-of-way, including the public improvement plan for East Middle Lane; and
- e) Plans for undergrounding of all utilities, including installation for street lighting per City standards.

7. The applicant is responsible for the following transportation impact mitigation measures:

- a) Transportation improvements must be in place prior to occupancy of the associated phase as follows:

Phase I	Site frontage improvements on Rockville Pike and East Middle Lane shown on Use Permit plan
Phase III	Construction of Maryland Avenue from East Middle Lane to Beall Avenue (modified section as acceptable)

- b) Prior to the release of a building permit for Phase III, an agreement shall be executed between the applicant and the City for pro rata participation toward the design and construction of Maryland Avenue extended from East Middle Lane to Beall Avenue. Anticipated participants include the State, County, City, Federal Realty Investment Trust, Rockville Center Inc., and others who generate demand for the extension. Alternatively, the applicant shall enter into an agreement to construct Maryland Avenue from East Middle Lane to Beall Avenue using a modified cross-section consisting of pavement and curb and gutter, at a minimum. The final section shall be acceptable to the Director of Public Works. Specific details of either agreement will be established with the guidance of the City Attorney.
- c) The applicant shall contribute the dollar amount equivalent to the value of offsite improvements previously agreed to in Use Permit U-502-93, minus 25 percent to reflect the 25 percent reduction in square footage of this project from the previous approval. This value is estimated to be between \$183,000 to \$250,000. The final amount shall be agreeable to the applicant and the Department of Public Works.
- d) The applicant shall contribute the dollar amount equivalent to the cost of restriping and identified pedestrian improvements to the MD 355/East Middle

Lane intersection. The final design shall be agreeable to the State Highway Administration (SHA), Washington Metropolitan Area Transit Authority (WMATA) and the Department of Public Works.

- e) Prior to occupancy of any building, the applicant shall contribute \$0.10 per square foot of building area per year for a period of ten years for use by the City in TDM programs to reduce the number of vehicular trips in the Town Center area. Specific details of this agreement will be established with the guidance of the City Attorney.
- 8. The applicant shall participate in the design and implementation of a comprehensive City-sponsored wayfinding program that will enhance pedestrian, bicycle and vehicular circulation and orientation in the Town Center.
- 9. The applicant shall post bonds and obtain permits from the Department of Public Works or State Highway Administration as appropriate, including right-of-way, sediment control and storm water management permits, as required.
- 10. Construction and occupancy must meet the requirements of the City's construction codes, fire code, life safety code, and other applicable codes and ordinances, and Maryland Accessibility and ADA requirements. Approval of the site plan does not include review or approval of any signs referenced thereon.
- 11. The architectural detailing of any parking structures exposed during each phase of development shall be compatible with that of the final building design and materials to be used on the office buildings.
- 12. Submission, for the approval of the Planning Commission, of a Final Record Plat application for the property. The plat shall accurately reflect the land exchange with the City and show all necessary public and private easements.
- 13. Submission, for the approval of the Chief of Police, of detailed building plans for review under Community Planning Through Environmental Design (CPTED) principles.
- 14. The applicant shall provide adequate bicycle parking and storage facilities, acceptable to the Director and Recreation and Parks, in all phases of the project.
- 15. The rooftop mechanical enclosures shall meet all associated development standards.
- 16. The applicant shall work with the Cultural Arts Commission to incorporate a work of art such as a sculpture into the project design, including but not limited to provision of financial support for acquisition of the art work.

Section 25-193(d) of the Zoning Ordinance requires that **construction or operation must commence within two (2) years of the date of the Commission's decision or application approval shall expire.** However, if just cause can be shown by the applicant, a maximum of two (2) extensions may be granted by the Planning Commission, each not to exceed one year.

By Direction of the City of Rockville
Planning Commission

Robert J. Spalding, AICP
Chief of Planning

Note: A building permit may be issued only when the conditions of approval have been met and a copy of the following acknowledgment, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that Commission approval does not constitute approval by any department or agency having jurisdiction over this development project.

I ACKNOWLEDGE RECEIPT OF USE PERMIT USE97-0577 AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.

(Applicant's Signature)

(Applicant's Printed Name)

/rjw
cc: Planning Commission
Gloria Atlas
Alfred Blumberg, Greenhorne & O'Mara, Inc.
George Dove, Weihe Design Group
Frank Francisco, Civil Engineer
Raul Garcia, FP Rockville Limited Partnership
Paul Glasgow, City Attorney
Burt Hall, Director of Recreation and Parks

Clayton Foulger

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January 5, 1999

Martin Heilman, Town Center Action Team

Linda MacDermid, Chief of Inspection Services

Steve Mader, City Forester

Kathleen Mitchell, Director of Community Planning and Development Services

George Northway, Cultural Arts Commission

Michael Schmidt, Greenhorne & O'Mara, Inc.

Barbara Sears, Linowes & Blocher, LLP

Susan Straus, Chief Engineer/Environment

Betsy Thompson, Recreation Programs Supervisor

Terry Treschuk, Public Safety and Community Services Director

Robert Van Zant, Senior Engineering Technician

Jim Wasilak, Planner II

Mark Wessel, Civil Engineer

Application File

LINOWES
AND | BLOCHER LLP
 ATTORNEYS AT LAW

September 15, 2004

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Mr. Robert Spalding
 Chief of Planning
 Dept. of Community Planning and
 Development Services
 City of Rockville
 111 Maryland Avenue
 Rockville, MD 20850-2364

Re: Rockville Metro Plaza PDP Application

Dear Mr. Spalding:

On behalf of our clients, F.P. Rockville Metro Plaza I, L.L.C., F.P. Rockville II Limited Partnership, and F.P. Rockville III Limited Partnership (collectively the "Applicant"), enclosed please find a preliminary development plan application ("Application") for Rockville Metro Plaza to increase the height of the Phase III Building ("Building III") by one story, or 15 feet, in order to increase the western setback of Building III by 15 feet. As you know, Use Permit No. USE97-0577 (the "Approved Use Permit") was approved for Rockville Metro Plaza, consisting of 3 office buildings, on December 2, 1999 (the "Project"). A copy of the Approved Use Permit letter dated January 5, 2004 is attached hereto as Exhibit "A". Building I has been constructed in accordance with the Approved Use Permit. Recently, however, the Block 5 residential building of the Town Center (the "Block 5 Residential Building") was approved with a windowless building wall of 8 stories, or 79 feet, at its common boundary with Rockville Metro Plaza. To alleviate the impact of the proximity of the Block 5 Residential Building to Building III, while maintaining the same Project FAR, the Applicant proposes to increase the height of Building III by 15 feet (from 121'4" to 136'4") to allow for an increase in the distance between Building III and the Block 5 Residential Building from 15 feet to 30 feet. No other changes to the Approved Use Permit are proposed. As shown on the attached elevations, the added floor of Building III would be set back approximately 10 feet from the currently designed face of the building on all four sides to break up massing of the building. We believe that, with this design, the additional floor will not be visible from the ground for approximately

Mr. Robert Spalding
September 15, 2004
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one to two blocks surrounding the building. Otherwise, the increased height will not significantly alter the appearance of Building III.

In order to increase the height of Building III, use of the optional method of development in the TCM-2 Zone is required since the standard method is limited to 100 feet in height above the 448' elevation level (*i.e.*, the 548' level), while optional method permits a maximum of 235' above the 448' level, or to level 783'. Currently, Building III is approved for a height of 121'4" (elevation 547'4"), and, therefore, a 15-foot increase in the height of the building results in Building III being 136'4" in height, or elevation 562'4", which exceeds the permissible height under the standard method by 14'4".

Article XIII, Section 25-682 of the Zoning Ordinance outlines the requirements for use of the optional method of development in the TCM-2 zone. The following describes how the planning of development for the Project will achieve the intent of Article VIII of the Zoning Ordinance and the Town Center Master Plan. The first requirement of Section 25-682 that an optional method application contain a minimum area of 2 acres is clearly met, as the Application encompasses 3.53 acres. In compliance with the second requirement that all applicants must submit a traffic impact study in conformance with the "Standard Traffic Methodology," enclosed please find a traffic statement dated September 10, 2004, from Wells and Associates, LLC confirming that the proposed changes will have no impact on the data, analysis or findings of their previously submitted traffic analysis for Rockville Metro Plaza since there is no increase in the previously approved FAR or change in use. Similarly, the conditions of the Approved Use Permit relating to traffic mitigation do not change and satisfy the requirements of Section 25-682(2). However, we note that Condition 7(b) of the Approved Use Permit has been satisfied by agreement with the City of Rockville that the Applicant's Pro-Rata Participation for the design and construction of Maryland Avenue Extended from East Middle Lane to Beall Avenue shall be \$524,937.00. This payment shall be made at the time of issuance of a building permit for the third building constructed in the Project. However, if the building permit for this third building is not issued on or before December 2, 2006, the agreement provides that the payment amount will be increased annually by an amount equal to the inflation rate of the Consumer Price Index. Further, in compliance with Condition 7(c), the Applicant and Rockville have agreed that the final amount to be paid as the equivalent to the value of off-site improvements previously agreed to in Use Permit 0-502-93, minus 25%, is \$213,526.00. In conformance with this agreement and in satisfaction of Condition 7(c), Foulger-Pratt has contributed \$71,175.33. Finally, as required by Condition 7(d), the Applicant has contributed \$8666.67 to the required pedestrian improvements to the MD 355/East Middle Lane intersection.

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The third requirement of Section 25-682 states, "[a]ll developments shall be subject to an urban design review process." The Project, inclusive of the Building III changes, is in compliance with the urban design principles outlined in the Rockville Town Center Master Plan, approved and adopted on October 22, 2001 ("Master Plan"). These principles are found at pages 90 through 96 of the Master Plan. As demonstrated by the plans and elevations included in this Application, the Project meets the design principles with regard to material and design quality, inviting facades and ground floors, site layout, building scale and massing, fenestration, architectural detailing, and parking design.

Moreover, in some respects, the increased height and setback proposed in this Application for Building III enhance compliance of the Project with the stated principles. For example, Guideline SL-1 states that "[a]ll site plan layouts shall give first consideration to pedestrians." With the increased setback of Building III along the western property line, more sunlight and air circulation will be available to pedestrians traveling between Building III and the adjacent Block 5 Building. Furthermore, the increased distance between the Block 5 Residential Building and Building II will make the scale of the two buildings along Maryland Avenue less imposing and more pedestrian-friendly. BSM-3 notes that "upper floor building setback shall be encouraged on Maryland Avenue." In the instant case, the proposed top floor is designed to be setback approximately 10 feet from the edge of the Building wall of the floors below, whereas, under the Approved Use Permit, no such setback was proposed. The urban design guidelines are therefore better achieved in this respect through the proposed revisions. BSM-5 requires, "[d]istinctive roof forms, profiles, and cornices . . . to provide a termination to the top of the building in such a manner as to complement and enhance the character of the Town Center." This guideline is likewise better met through the proposed revisions to Building III, as evidenced by the elevations included in this Application. While the top of Building III under the Approved Use Permit was previously a straight horizontal edge, with the addition of the setback top floor, the roof form is greatly enhanced. This addition also conforms with Guideline AD-5 that states, "[a]ll buildings shall incorporate elements which break up façade planes and create visual play of light and shadow . . . [a]void long, uninterrupted horizontal elements."

The fourth requirement under Section 25-682, concerning the casting of shadows, is satisfied by the enclosed shadow study, demonstrating that, between 10:00 a.m. and 2:00 p.m. on December 21, the shadow cast with the proposed height increase on the adjacent Lot 5 buildings will be no greater than that which would have been cast under the Approved Use Permit and, in fact, will lessen the shadow impact on the adjoining property. The remaining requirements for optional method approval are also met with this Application. In conformance with the fifth requirement, the development is part of a comprehensive plan that includes a mix

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of uses and, in fact, the goal of the proposal is centered upon enhancing the compatibility of Building III with the residential and retail components of the Town Center Project to the west of Building III. The Project contains a system of public pedestrian ways, in accordance with the sixth requirement, and the proposed Building height will remain in conformance with the seventh requirement, as the maximum proposed height is 136'4".

The PDP application calls for a preliminary schedule of development. As noted below, we have attached copies of the overall Site Phasing Plan from the Approved Use Permit. The Project consists of three phases. Phase I has been completed and Phases II and III may be constructed simultaneously or in any order. The Property has been recorded pursuant to the approved Use Permit and all required dedications of land to public use have been made.

Associated with this Application, enclosed please find:

1. A completed Application for Preliminary Development Plan.
2. A check in the amount of \$5,000.00 representing the filing fee for the Application.
3. Concept Plan identified as the "Phase III Revision"" prepared by WDG dated September 13, 2004 and containing 14 pages. The Concept Plan includes a site plan, building elevations, floor plans, building sections and other data (eleven full-size copies and eleven reduced copies).
4. A traffic impact statement by Wells and Associates, LLC dated September 10, 2004 (eleven copies).
5. Approved Landscape and Forest Stand Delineation (FSD) Plan from Approved Used Permit (eleven copies).
6. Shadow Study prepared by WDG Architects, dated 9/13/04 (eleven copies).
7. On-Site Storm Drain Plans and Profiles, Water and Sewer Plans and Profiles, Roadway Improvement Plans, Storm Drain Relocation Plans and Profiles, Sediment and Erosion Control Plans from Approved Use Permit (eleven copies).
8. 12th Floor Redesign Elevations and Perspectives prepared by WDG and dated 9/13/04 (eleven copies).

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9. Overall Site Phasing Plan from Approved Use Permit (eleven copies).

If you have any questions regarding this Application, please feel free to contact us.

Sincerely,

LINOWES AND BLOCHER LLP


Barbara A. Sears


Erin E. Girard

cc: Clayton Foulger
Erin Quinn



WELLS & ASSOCIATES, LLC

TRAFFIC, TRANSPORTATION, and PARKING CONSULTANTS

September 10, 2004

Arthur Chambers
Director
Department of Community Planning
City of Rockville
111 Maryland Avenue, 2nd Floor
Rockville, Maryland 20850-2364

Re: Rockville Metro Plaza III
Amendment to Use Permit No. USE97-0577

Dear Art:

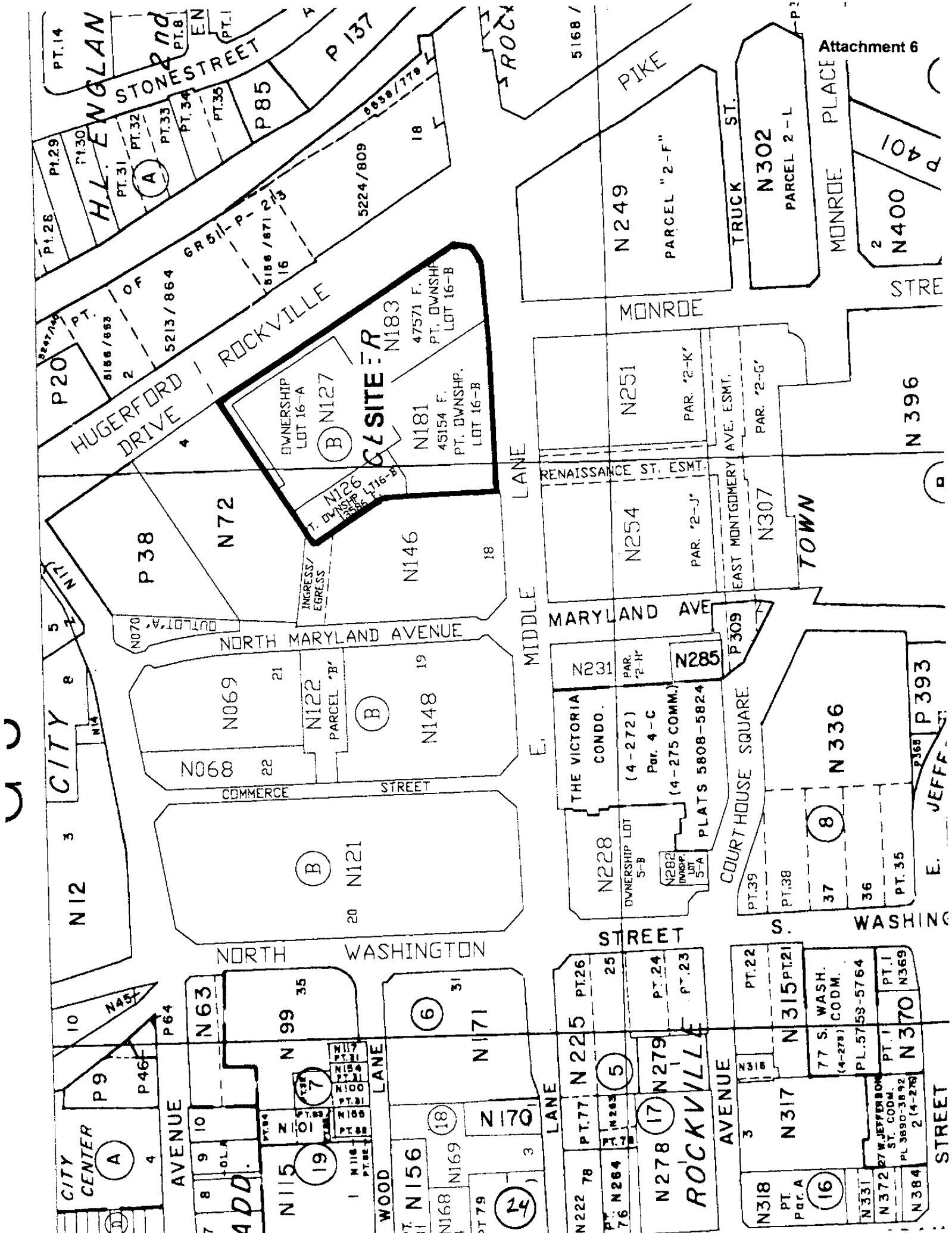
This letter is written in support of Foulger Pratt's proposed amendment to the Use Permit No. USE 97-0577.

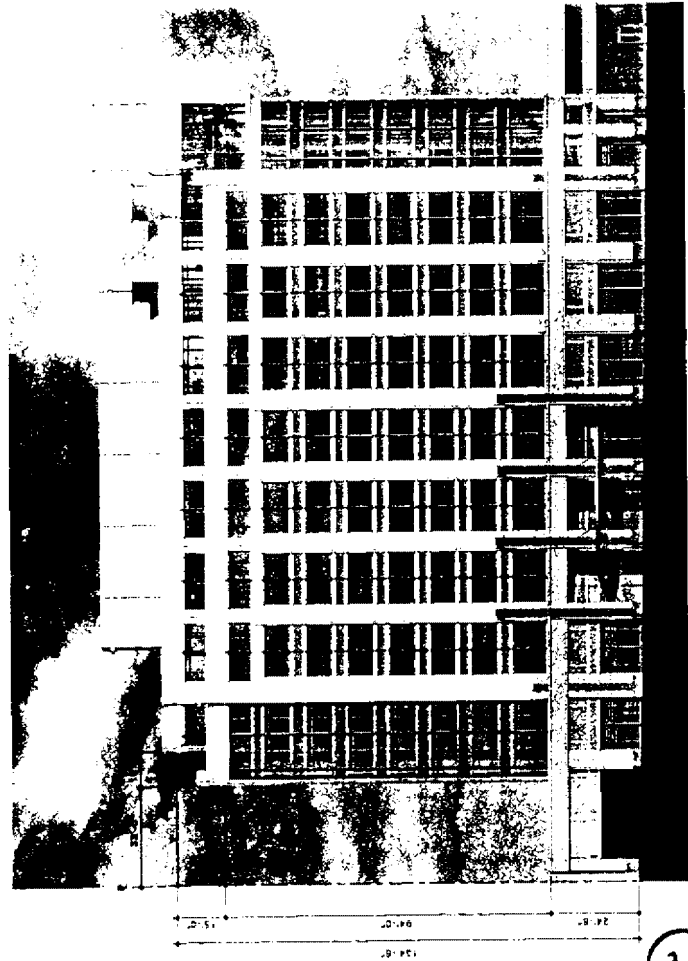
We understand that Foulger Pratt proposes to increase the height of Rockville Metro Plaza III (Building III) by one story, or 15 feet, in order to increase the building setback from the western property line, from the Town Center Block 5 Building, from 15 to 30 feet.

We further understand that this proposal would not change the building use, floor area ratio (FAR), building square footage, number of parking spaces, parking ratio, or number or location of parking garage driveways. Accordingly, this proposal would not affect the data, analysis, or findings of Wells & Associates' previous traffic studies of Rockville Metro Plaza.

Please call me if you or your staff has any questions or comments regarding this letter or any other matter.

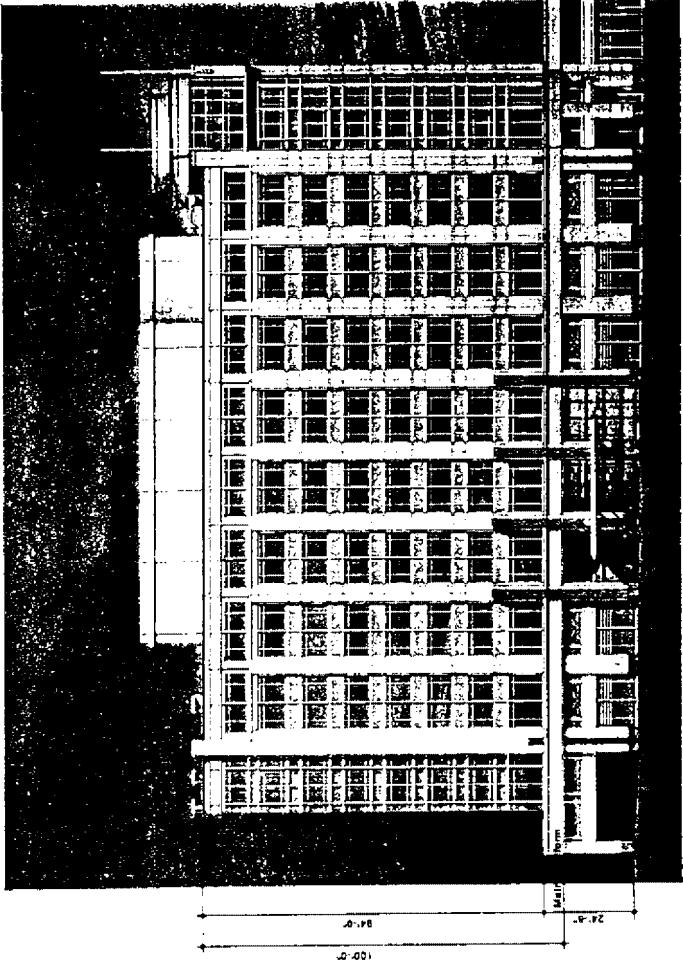
Sincerely,





Proposed

Front Elevation, 12 Story



Approved

Front Elevation, 11 Story



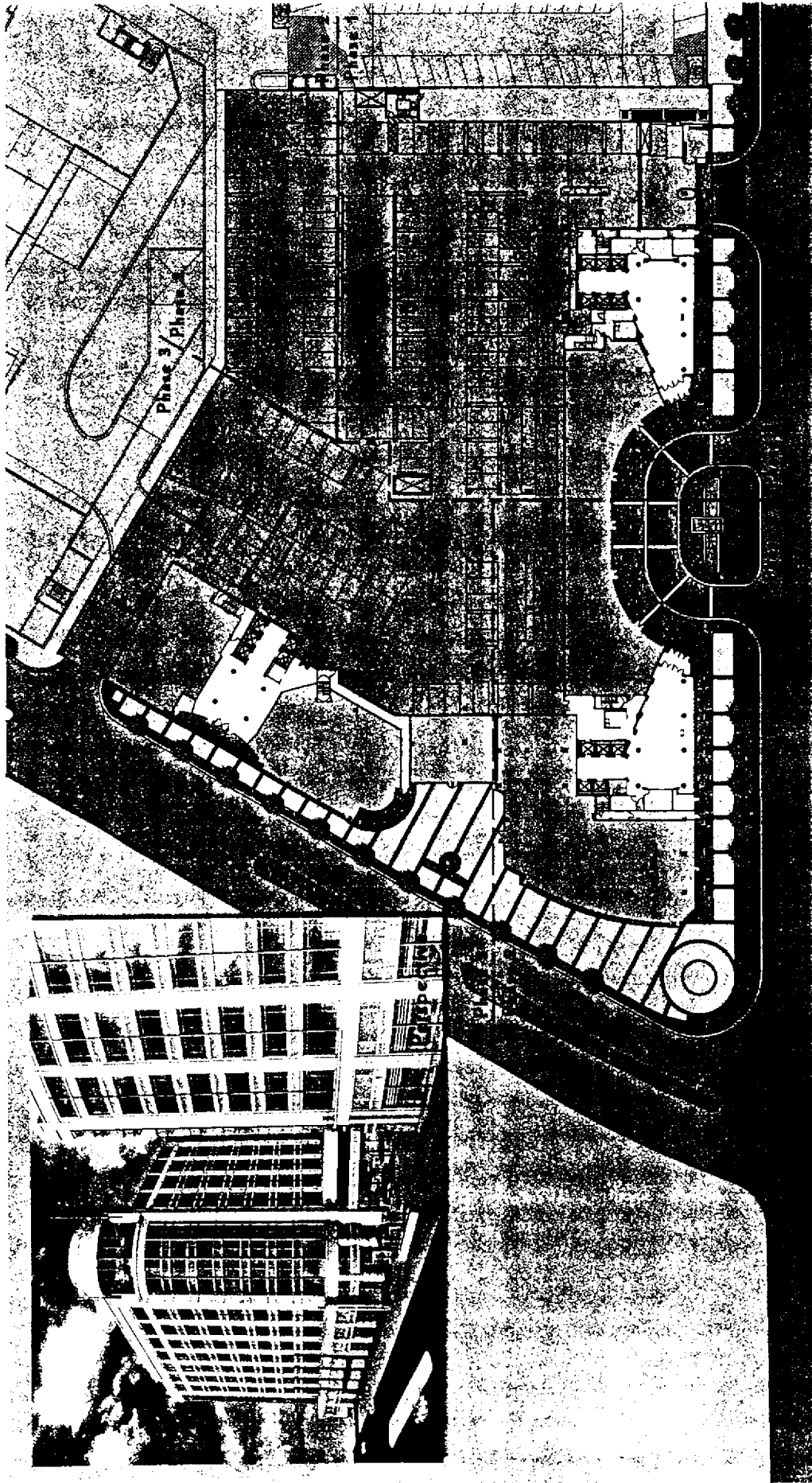
ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND

**Revised Phase III Design
Elevations**

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9/13/04



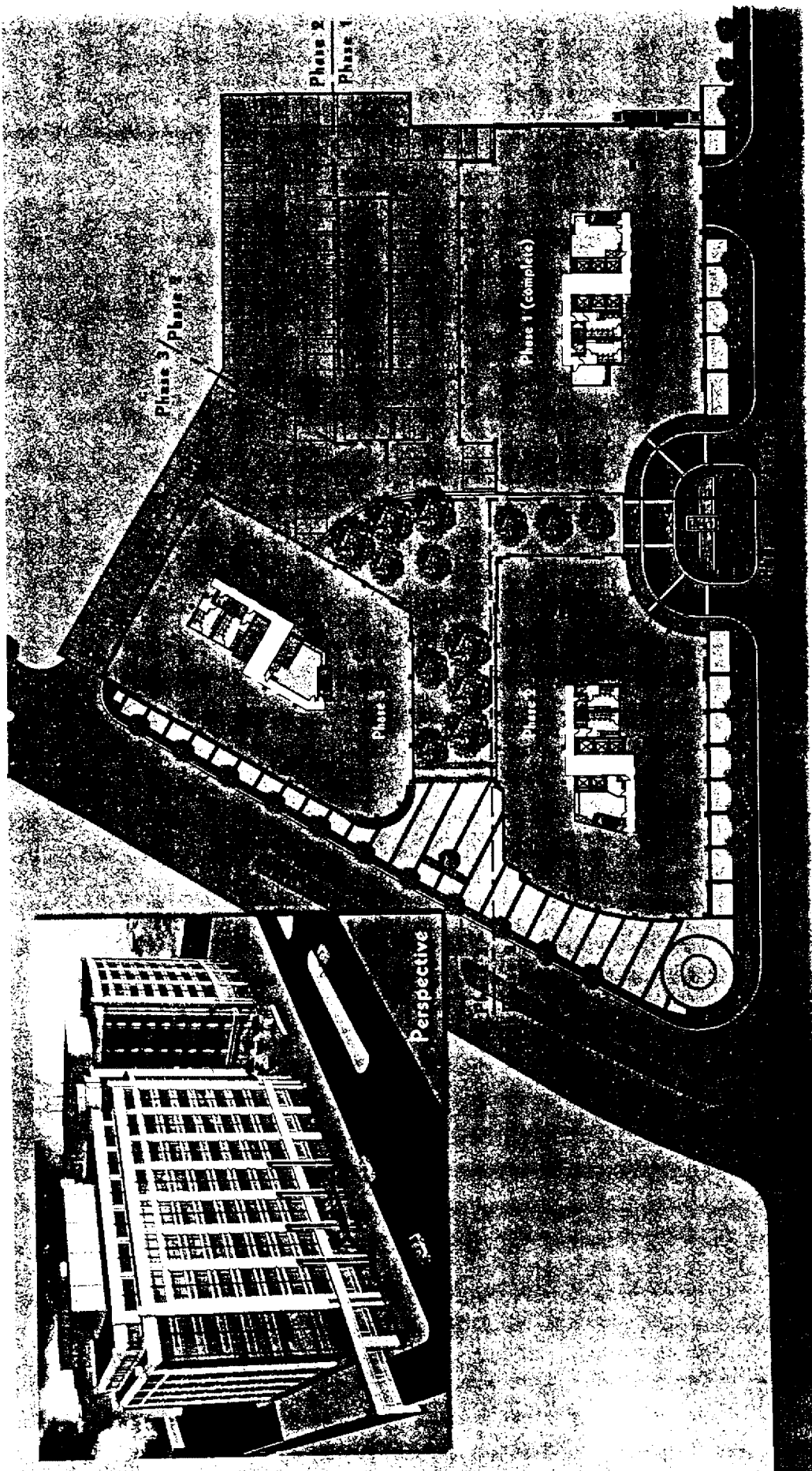
ROCKVILLE METRO PLAZA

**FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND**

Revised Phase III Design First Floor Plan

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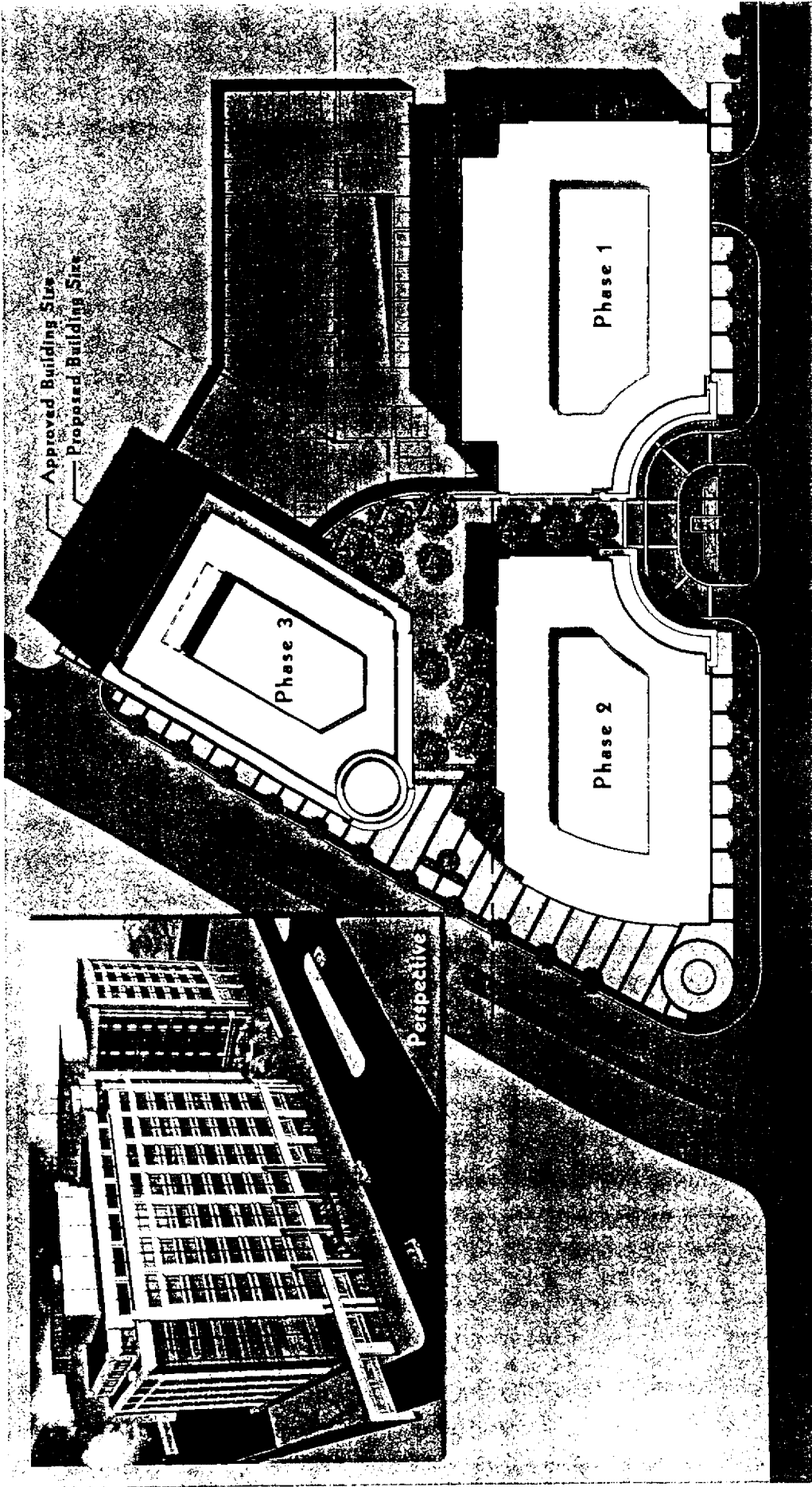
Revised Phase III Design Typical Floor Plan

H:\WA0409\RMPP\Phase III Design\Graphs\03.dwg 9/13/04

ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND





ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND

Revised Phase III Design Roof Plan

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